

Organic Advisory Board
April 13, 2006
USDA Agricultural Research Station
Wapato, WA

Members Present: Michele Catalano (Consumer Representative), Marilyn Lynn (Rama Farm), Aaron Avila (GS Long), Harold Ostenson (Double O Organics/Stemilt Growers), Dan Dufault (Emmanual Enterprises), Steve Hallstrom (Tolt Gardens), Andrea Pipitone (Pipitone Farm), Phil Unterschuetz (IFM), Dain Craver (Craver Organic)

Members Absent: David Granatstein (WSU), Michael Blakely (Growing Things)

Guests: Jay Gordon, Harold Austin

WSDA Staff Present: Miles McEvoy, Les Eklund, Brenda Book, Jerry Buendel

Recording: Brenda Book

Introductions: One word that means spring to you....

Announcements: None

Public Comment: None

Tilth Update:

WSDA Organic Food Program was established out of Tilth Producers. Marilyn Lynn (President of Tilth Board) provided a brief report regarding what the Tilth organization does.

As a means to improve communication and collaboration, Rachael Jamison (OFP staff) has been appointed to the Tilth Board as the WSDA liaison (a non-voting member).

State Organic Program:

Meeting with Director Loveland - WSDA staff (Miles, Les, Jerry) and OAB members (Michele, Aaron, Marilyn, Dan) met with WSDA Director Valoria Loveland on April 6, 2006 to re-discuss the development of a State Organic Program. The proposal was well received by the Director although she has some concerns about requiring registration fees. She was very supportive of civil penalties as a deterrent, but was not supportive of embargoes or cease and desist. Director Loveland understands that the OAB is supportive, but wants to be sure the stakeholders are also supportive (other certifiers, certified and noncertified parties). CCOF has indicated that they are not against paying fees – they are required to in many states. However, what is benefit of paying the fee – what will the certifiers gain?

Refer to April 7th email from Miles McEvoy to the OAB and to the April 6th meeting agenda for more details on the meeting and proposal brought to Director Loveland.

Further Discussion on the subject included:

- Iowa, Georgia, and other states are providing oversight and registration via their state laws (some of these states do not even have a state certification agency). Other states are still

using state statute as basis for enforcement although WSDA has been operating under the understanding that USDA Rule superseded the state's enforcement ability. In addition, certain states require registration of certification agencies operating in their state – without being a state program.

- In 2001/2002, WSDA applied to become a state organic program with additional requirements and was denied by USDA.
- Discussion on how a state program can help and/or hinder... what authority we would have, etc.
- Currently OFP is conducting surveillance inspections and will continue to do so as required by ISO Guide 65, but with no authority to respond to violations.
- Civil Penalties are not a means to fund the State Program – they are a means to recover costs of specific case (AG office fees, hearings, etc.)
- What should be in place first – fee change or state program application to USDA? Board would like legislation and application to move forward at the same time. Potential is that state program could be in place before funding – although we are already incurring costs. Board agreed that both should be pursued regardless...could show legislation that we are committed.

OAB voted (January 2006) to have the Organic Food Program pursue becoming a State Organic Program.

TASKS or Next Steps -

1. WSDA staff plans on putting together a concept paper for the statutory change to charge fees to support a State Organic Program by May 1. Fees would be a way to recover current costs that are already being incurred. This would be the fee change on track for fall legislation.
2. Additional information from stakeholders needs to be obtained per Director.
3. Additional information is needed from other states – both state programs and non-state programs.
4. By end of June – WSDA staff will put in an application to become a State Program with USDA.

European Organic Program:

EOVP Review - A summary of the February 1 OAB review of the European Program was distributed and discussed. The following points were made:

- Number of certificates issued is not on the first page.
- OAB comments about the review process should be included in summary/corrective actions (provided via emails to Rachael Jamison)
- The OAB sees the canned language as a problem – Les indicated he is already addressing this concern by requiring inspectors to fill out a new report each year – cannot use last year's as a template.
- Confidential information was included in the summary – due to this fact, OAB is returning the summary to staff at the meeting.

TASK – Staff will meet to address the findings and come up with a corrective action plan that will be submitted to the OAB.

March 23rd EOVP Conference Call – WSDA staff members, six OAB members, and Brian McElroy from CCOF met via conference call on 3/23/06. Notes from the conference call were distributed and discussed.

The purpose of the call was to discuss and clarify issues around the use of prohibited materials listed in the WSDA EOVP Additional Requirements and discuss the proposal Miles McEvoy sent to the OAB on 3/20/06 regarding the transition time required if prohibited materials are applied. Due to the fact that US certifiers may be handling the use of noncompliant materials inconsistently, there is a concern that it may block access of WSDA growers to the EU market.

Further discussion –

- WSDA went through files to see who has been denied access to EOVP program in previous years. The numbers of operations that were actually denied due to mycoshield is low. However, it is highly probable that many operations may not have applied for certain varieties because they are aware the products won't comply.
- In past years OFP was not looking more than one year back for prohibited material use. However, this approach was not compliant with the EU regulations and OFP has not yet decided how this will be addressed in 2006.
- In January 2006 OAB approved a change in the scope of the EOVP Additional Requirements – beginning 2006 producers may have a portion of their operation certified to the NOP and a portion certified to the EOVP (compliance no longer per variety). OFP staff was asked to immediately get this information out to producers and handlers as it will affect how management and recordkeeping is done by operations. *(on 4/21/06 a letter and the revised requirements were sent to all WSDA certified operations)*
- Due to change in scope, inspection reports and material forms need to capture prohibited materials per site and per variety.
- Tracking of sites is important – keeping NOP and EOVP products in separate sites benefits EOVP operations due to the need to prevent commingling.

TASK - Brenda will tally the 2005 export data and distribute the information to the OAB. However, it was noted that there is a difficulty in tracking products that other certifiers are signing off on (products being exported through CF Fresh, etc.).

Research Station Tour

Internal Audit Corrective Action Report:

Miles provided a summary of the corrective action plan from the 2005 Internal Audit. Jerry is working with Miles on a monthly basis to ensure corrective actions are on track.

TASK – The Internal Audit discussion also brought up the fact that the IFOAM deficiencies (noted during the initial accreditation process) need to be addressed this year – the plan for correcting these will be forwarded to the board.

NOSB Issues:

Jennifer Hall discussed her experience so far as a member of the NOSB. She has been impressed by the process involved and knowledge of the board. Jennifer is on the Livestock and Certification Committees.

Hydrated Lime for use with Livestock is up for review by NOSB as part of the Sunset Review process. NOSB recommendation is that hydrated lime be removed from National List. NOSB concerns is that there are synthetic acids involved in processing hydrated lime and that there are natural forms available that could replace the synthetic form. Jennifer indicated that producers were canvassed and the response was that it could be removed.

Jay Gordon commented on hydrated lime use with livestock. It is used as antiseptic for hooves and mastitis – used in beds to keep pathogens down. This is especially a concern in Western WA due to the wet climate. Jay has concerns that an alternative is not readily available to Washington dairies.

Hydrated lime in regards to disease control in crop production is also up for review. However, WSDA could not find any operation that is using hydrated lime in this way.

The difference between using hydrated lime in a handling operation to clean equipment, etc. was discussed. This use requires compliance with 205.272 and does not require the substance to be listed on the National List since there is not direct contact with organic products.

Other recommendations and issues being discussed at NOSB –

Synthetic vs. Nonsynthetic – This topic is up for discussion at the NOSB meeting – no recommendation at this time. Determination of criteria for determining synthetic vs. nonsynthetic will change how materials are reviewed by WSDA and this issue needs to be followed carefully.

Commercial Availability of Organic Ingredients (205.606) – Beginning June 9, 2007 all nonorganic ingredients in a product that is labeled “organic” must be specifically listed in section 205.606. Operations must petition to have nonorganic ingredients added to the list, source organic ingredients and reformulate their products, or relabel their products to comply with the “made with... “ category. NOSB recommendation is around the process for approving nonorganic ingredients for inclusion on the National List.

Amendments to Organic Certification Fees:

Miles reviewed the current budget status with the board. The budget picture is very different from what it was in January and if current trends continue – the program will be farther ahead than anticipated. However, costs will continue to increase with staff raises, cost of gas, etc.

Miles also presented a general proposal regarding organic certification fee changes. Specific numbers and amounts of increases were not looked at. However, the **OAB members commented that the proposal is on target – the proposed changes presented by MM address where time is spent and therefore where costs are incurred and the complexity of crops and products is playing a role in the fee increases** (split operation reviews and inspections, new product reviews, etc.).

Some ideas and further comments provided by OAB members:

- The late fee should be higher than the proposal increase provided – perhaps the late fee could increase the later the application is or the closer it is to harvest time, etc .
- Big business versus small is not the issue – it is time spent to do certification. However, small farms do need more consideration.
- Producers that are also handling/processing or have both crops and livestock may have a very high fee – this is ok since there is a lot more work involved, but actual scenarios should be plugged into figures to determine if fees are on target for these types of operations (keeping in mind that many small farms would fall into this category). Perhaps there could be a cap of total fees for a certain sales number for these types of operations?
- The minimum fee is still very low compared to other certifiers.
- “Gross sales of organic products” versus net sales needs to be clear.
- Crops and Livestock Section of proposal –
 - “Human consumption” should changed to “crops for sale”
 - “with added value gross” concept needs to be throughout.
- Site Fee –
 - Harold Austin is opposed to annual site fee as written in the proposal. Suggested that the fee be based on location of sites, or number of sites (1-5). However this would not recover the time for reviewing, inspecting each site.
 - Section needs more work, but overall concept is good.
- Facility Fee and Co-packer Fee –
 - Proposal for this section needs more work since currently WSDA is set up to certify per facility (operations do not have more than one facility per certification). A new idea is that there would not be a facility fee but a raised base line fee and a co-packer fee.
- Product Fee –
 - It was suggested that there be a single ingredient versus multi ingredient new product fee since single ingredient products do not take as much time to review.
- Expedited inspections –
 - Support was given for concept for requested inspections, but the timeline needs work (isn't it expected that an inspection will occur in 60 days?).
 - Add disclaimer – “if able to accommodate these fees apply”. OAB was concerned that the expedite fee would bump applications that have already been submitted to the bottom of the pile.
- New applicant fees –
 - Caution to not make too high so new applicants aren't put off or discouraged from applying.
- Inspection Fee –
 - A suggestion was made that all inspections are billed by the hour.
 - Could be a minimum inspection fee (3 hours) and anything beyond is charged for.
 - However, concerns were that new inspectors or first year applicants could take longer due and the fairness of this.
 - Applicants may not take time to talk to inspector if they are being charged by the hour and instead they would call office – costs are simply deferred.

TASKS and Next Steps - Miles will formalize proposal based on OAB supporting concept of targeted fee schedule changes, taking into account the noted suggestions made by the OAB.

The full proposal is needed in the summer so it may go out for public for comments. The proposal will incorporate data on how many operations are affected, etc.

After public comment, rule change would go to legislative session in fall and changes would go into affect in 2007.

Note – Pre-proposal was submitted in February 2006. The pre-proposal did not include a change to the handler/processor renewal date as it was decided that is was not necessary to pursue at this time.

Retail and direct market operations:

Miles gave an overview of the requirements for exempt and excluded methods under the National Organic Standards.

- Organic Foods Production Act (OFPA) in regards to processed foods and small farmer exemptions.
- Section 205.101 of the National Organic Standards – exemptions are from OFPA. Exclusions are from NOSB recommendations.
- Exemptions –
 - Producers and handlers under \$5000;
 - Retailers that handle products but do not process (grocery stores);
 - Handlers that only handle products that contain >70% organic ingredients;
 - Handlers that only identify organic ingredients in the ingredient statement of the product label.
- Exclusions –
 - Handlers that do only handle packaged products that remain in the same package;
 - Retailers that process on site raw and ready to eat products (restaurants, delis).
- Labeling requirements for exempt and excluded operations and products: 205.308, 309, 310
- Other label claims – all labels must be truthful, but in general there are no regulations on “natural” (except some definitions around processed meat).

OFP staff is working on improving surveillance inspections of exempt and excluded operations – (farmer's markets, etc.)

Organic Advisory Board Business

- Orlin has stepped down from Board. However, he has asked to be included on emails and other information.
- Roger has resigned from the board.

TASK - Michele will send out thank you letters to Orlin and Roger.

MOTION – Approve January 31st OAB meeting minutes. Motion made by Aaron, Seconded by

Phil, Vote unanimous. **Motion Passed**

Review of OAB Handbook – the current OAB handbook was distributed and discussed in regards to whether changes were needed.

- Phil indicated that OAB needs to communicate to certified operations for feedback and impact on the goals and mission of the Organic Program – could be a new bullet under number 3.
- Michele – Introduction does not tell how OAB was formed – link with Tilth Producers. Add history into introduction.
- Aaron – large goal is simplifying, clarifying regulations for certified operations.
- Membership makeup should state “Producers” rather than “growers.”

Other Points of Discussion -

- Michele – when NOP came into effect – there was uncertainty if there was a need for the OAB. In retrospect – the need has increased with underlying need remaining to be true to WA state.
- How can the board help the staff? Staying on top of NOSB issues and responding to when applicable, reaching out to certified operations, bring concerns to OFP staff...

TASK - Board would like to be listed in the quarterly report so public knows who to contact.

Next meeting – June 27th Conference Call 10am – 1pm

Other Items Discussed (Bold Items indicates follow up needed by OFP staff.)

- **Outgoing mail (regardless if there is a certificate included) is being sent to certified operations in large envelopes rather than small business envelopes** (i.e. one page cost share letters). The OAB sees this as an unnecessary cost to the program.
- **Aaron would like OFP to ensure JAS info (export arrangement) is on the website.**
- **OAB members have received comments from operations that the New Site Applications and Livestock packets may be missing some forms.**
- Miles discussed that the OFP is looking at restructuring management – clients are the boss – goal is to serve clients.
- Phil was reappointed in October 2005. This was not captured in the notes from that meeting – **Phil’s reappointment date will be updated.**
- **Is it possible to send out monthly newsletters during the growing season about pertinent issues?**
- Lime sulfur burners – Dan would like this material to be allowed under NOP. Miles advised Dan to file a petition with the NOP – he was advised to file a petition. Dan will follow up with Aaron and Alec who were looking into this issue a few years ago.
- Treated wood – Dan would like a barrier of plastic or another substance to be allowed.

Agenda Items for Next Meeting:

- Treated Wood
- Lime Sulfur Burners

Handouts:

- April 13th Agenda
- January 31, 2006 OAB meeting minutes
- WSDA OAB Meeting with Director Loveland re: State Organic Program
- Surveillance of Organic Food Product Management and Labeling – PRO-OFP 800
- Organic Advisory Board Review of European Organic Verification Program: 2006
- OAB Conference Call – WSDA EOVP – March 23, 2006
- Japanese Export Arrangement Information
- Corrective Action Plan – from 2005 Internal Audit and Assistant Director's Program Review by Jerry Buendel
- Organic Certification Fee Proposal
- Proposed Changes to Chapter 16-157 WAC
- OAB Handbook
- WSDA Office Staff Organizational Assignments

Summary of Noted Tasks:

- WSDA staff plans on putting together a concept paper for the statutory change to charge fees to support a State Organic Program by May 1.
 - Additional information from stakeholders needs to be obtained per Director.
 - Additional information is needed from other states – both state programs and non-state programs.
- By end of June – WSDA staff will put in an application to become a State Program with USDA.
- Staff will meet to address the EOVP review findings and come up with a corrective action plan that will be submitted to the OAB.
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- The Internal Audit discussion also brought up the fact that the IFOAM deficiencies (noted during the initial accreditation process) need to be addressed this year – the plan for correcting these will be forwarded to the board.
- Miles will formalize proposal based on OAB supporting concept of targeted fee schedule changes, taking into account the noted suggestions made by the OAB.
 - The full proposal is needed in the summer so it may go out for public for comments. The proposal will incorporate data on how many operations are affected, etc.
 - After public comment, rule change would go to legislative session in fall and changes would go into affect in 2007.
- Michele will send out thank you letters to Orlin and Roger.
- Board would like to be listed in the quarterly report so public knows who to contact.
- Noted follow up in “Other Items Discussed” section of notes.